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PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Frank. A. Howell

Serial No.: 10/822,549

Group No: 3677

Filed: 04/12/2004

Examiner: Ruth C. Rodriguez

For: RAPID ATTACHMENT BUCKLE

## Mail Stop Appeal Brief- Patents

Commissioner of Patents

P.O. Box 1450

Alexandria, VA 22313-1450

TRANSMITTAL OF APPEAL BRIEF (PATENT APPLICATION--37 CFR 192)

1. Transmitted herewith in triplicate is the APPEAL BRIEF in this application with respect to the Notice of Appeal filed on April 12, 2006.

NOTE: "The appellant shall, within 2 months from the date of the notice of appeal under 1.191 in an application, reissue application, or patent under reexamination, or within the time allowed for response to the action appealed from, if such time is later, file a brief *in triplicate*." 37 CFR 1.192(a) [emphasis added]

## 2. STATUS OF APPLICANT

This application is on behalf of

☐ other than a small entity☒ small entity  
verified statement:☐ attached☒ already filed

## 3. FEE FOR FILING APPEAL BRIEF

Pursuant to 37 CFR 1.17(f) the fee for filing the Appeal Brief is:

☒ small entity \$250.00☐ other than a small entity \$500.00Appeal Brief fee due \$ 250.00

## CERTIFICATE OF MAILING (37 CFR 1.8(a))

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on May 17, 2006 in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number EV856042405US addressed to the: Mail Stop Appeal Brief Patents- Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date:

May 17, 2006Emily C. Porell

(Type or print name of person mailing paper)

Emily C. Porell  
(Signature of person mailing paper)

4. EXTENSION OF TERM

NOTE: The time periods set forth in 37 CFR 1.192(a) are subject to the provision of 1.136 for patent applications. 37 CFR 1.191(d). Also see Notice of November 5, 1985 (1060 O.G. 27).

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136 apply.

*(complete (a) or (b) as applicable)*

- (a) ☐ Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-d)) for the total number of months checked below:

<u>Extension (months)</u>	<u>Fee for other than small entity</u>	<u>Fee for small entity</u>
<input type="checkbox"/> one month	\$110.00	\$55.00
<input type="checkbox"/> two months	\$390.00	\$195.00
<input type="checkbox"/> three months	\$930.00	\$465.00
<input type="checkbox"/> four months	\$1,470.00	\$735.00
		Fee \$

If an additional extension of time is required please consider this a petition therefor.

*(check and complete the next item, if applicable)*

- ☐ An extension for \_\_\_\_\_ months has already been secured and the fee paid therefor of \$ \_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$

or

- (b) ☒ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

5. TOTAL FEE DUE

The total fee due is:

Appeal brief fee \$ 250.00  
Extension fee (if any) \$

TOTAL FEE DUE \$ 250.00

6. FEE PAYMENT

X Attached is a check in the sum of \$ 250.00.

— Charge Account No. 19-0079 the sum of \_\_\_\_\_.  
A duplicate of this transmittal is attached.

7. FEE DEFICIENCY

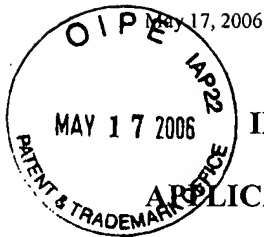
NOTE: If there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum, six month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986, 1065 O.G. 31-33.

X If any additional extension and/or fee is required, this is a request therefor and to charge Account No. 19-0079.

Respectfully submitted,



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Alexandria, Virginia 22313-1450

Sir:

**APPEAL BRIEF**

Pursuant to 35 U.S.C. §134 and 37 C.F.R. §§1.191, 1.192, and 1.196, Appellant respectfully appeals to the Board of Patent Appeals and Interferences from the Examiner's final rejection of claims 1 and 8-15.

**1. REAL PARTY INTEREST**

The real party of interest is the inventor, Frank A. Howell.

**2. RELATED APPEALS AND INTERFERENCES**

The present application has no pending related appeals or interferences.

**3. STATUS OF CLAIMS**

Claims 1 and 8-15 stand rejected under 35 U.S.C. §102(b) as being anticipated by Dillin (U.S. 541,729). Claims 8-14 additionally stand rejected under 35 U.S.C. 102(b) as being anticipated by Scholey (U.S. 5,970,585).

#### **4. STATUS OF AMENDMENTS**

No amendments after the final rejection have been filed.

#### **5. SUMMARY OF THE INVENTION**

With reference to figures 1-8, one embodiment of a buckle 30 in accordance with the present invention is shown for capturing and releasably retaining the thickened end tab 28' of a strap 28 having a width and thickness. The buckle has a base 32 with parallel side walls 34 extending upwardly therefrom to define an open-ended receiving channel 36. Flanges 38 are spaced vertically from the base 32 and extend inwardly from the side walls 34 to define an open-ended slot 40 communicating with the receiving channel 36. The flanges 38 have converging sections leading from a maximum slot width  $W_m$  at the entry end of channel 36 to a reduced slot width  $W_r$  at an intermediate location along the channel length.

As such, and as shown at 28c in Figure 6, the slot 40 is configured and dimensioned to accommodate longitudinal pinching and lateral insertion of the strap 28 into the receiving channel 36.

The converging flange sections have undersides 43, 44, 46 configured to coact with the base 32 in releasably wedging the end tab 28' in the receiving channel 36, as shown in Figure 8.

Again with reference to Figure 8, it will be seen that the buckle is seated on a lower run 28a of the strap 28, and is held in place by an attachment web extending over the base 32 (mistakenly designated at 82) and stitched as at 50 to the lower strap run 28a and an underlying ruck sack 24 or the like.

A second buckle embodiment 30' is disclosed in Figures 9, 10, and 12. The second embodiment differs from the first in that its base 32 is interrupted by transverse slots 56. As can best be seen in Figure 10, the buckle 30' is designed for mounting on a length of strap 58 threaded through the slots 56.

A third buckle embodiment 30" is illustrates in Figure 12. Buckle 30" differs from buckle 30 with regard to its base and side walls, which are formed as integral parts of a frame structure 66.

## **6. ISSUES**

The issues before the Board in this appeal are whether the Examiner was correct: (a) in rejecting claims 1 and 8-15 under 35 U.S.C. §102(a) as being anticipated by Dillin; and (b) in rejecting claims 8-14 under 35 U.S.C. §102(a) as being anticipated by Scholey.

## **7. GROUPING OF CLAIMS**

For purposes of this appeal, the claims stand alone and are to be considered individually.

## **8. ARGUMENT**

### **A. U.S. Patent No. 541,729 (Dillin)**

In Dillin, one end of a cord E is attached to the body A of a bag fastener by looping it through an eye B. The cord is then passed through an enlarged throat D to form a loop encircling the neck L of the bag. The cord can then be pulled tight, passed around the bite N and laid in the recess F, with the knot M seated in the counterbore H.

The recess F is "of substantially the same diameter as the flexible tie or cord E" (lines 35-37). "Especial attention is called to the function attained by having the bight N

acting in conjunction with the knot M, the cord E being thereby prevented from slipping outwardly owing to said bight, or inwardly, owing to said knot” (lines 57-62).

B. Claims 1 and 8-15 are not anticipated by Dillin

Claim 1

Claim 1 is not anticipated for at least the following reasons:

- a) Dillin lacks a second slot “configured and dimensioned to accommodate longitudinal pinching and lateral insertion” of the cord E into the recess (slot) F. Rather, as noted above, the recess (slot) F is “of substantially the same diameter as the flexible tie or cord E” and thus does not require pinching; and
- b) the undersides of Dillin’s flanges C are not configured to “releasably wedge” the knot M. Rather, and again as noted above, the cord E (and the knot M) are prevented from slipping outwardly by the bight N.

Claim 8

Claim 8 is not anticipated by Dillin for at least the reasons set forth with respect to claim 1.

Claim 9

Claim 9 is not anticipated by Dillin for at least the reasons set forth with respect to claim 1, and additionally because the undersides of the Dillin flanges C do not have “downwardly sloping jamming surfaces configured to frictionally retain” the knot M in the counterbore G.

Claim 10

Claim 10 is not anticipated by Dillin for at least the reasons set forth with respect to claims 1 or 9, and additionally because the recess (slot) F in Dillin does not have “converging sections leading from a maximum width of said slot at the entry end of said receiving channel to a reduced width of said slot at an intermediate location along the length of said channel.” In Dillin, the recess (slot) F has a constant width.

Claim 11

Claim 11 is not anticipated by Dillin for at least the reasons set forth with respect to claims 1, 8 or 9, and additionally because the undersides of the flanges C in Dillin do not define stop surfaces engageable with a shoulder on the knot M of the cord E.

Claim 12

Claim 12 is not anticipated by Dillin for at least the reasons set forth with respect to claim 11, and further because the flanges C in Dillin do not have undersides with jamming surfaces sloping downwardly to stop surfaces.

Claims 13 and 14

Claims 13 and 14 are not anticipated by Dillin for at least the reasons set forth with respect to claims 8 or 9.



Claim 15

Claim 15 is not anticipated by Dillin for at least the reasons set forth with respect to claim 13, and additionally because, contrary to the Examiner's assertion, the body A of the Dillin bag fastener does not have a base with transversely extending slots through which a strap is woven. Instead, Dillin has an eye B through which one end of the cord E is looped and tied, and a throat D through which the knot M and the other end of the cord is passed.

C. U.S. Patent No. 5,970,585 (Scholey)

In the Scholey patent, as best illustrated in Figures 3 and 4, buckle members 16, 18 are employed to connect the opposite ends of an elastic strap 20. The end of buckle member 18 is formed with outwardly extending wing portions 22 which fit within outwardly extending flange members 24 formed at the end of buckle member 16. The buckle members are connected by interengaging the wing members 22 with the flange members 24. The two buckle members are retained together in an interengaged relationship by tension in the elastic strap.

D. Claims 8-14 are not anticipated by ScholeyClaim 8

Claim 8 is not anticipated by Scholey for at least the following reasons:

a. Scholey lacks a second slot "configured in dimension to accommodate longitudinal pinching and lateral insertion" of the strap 20. In Scholey, the strap has a narrow width which measures less than the space between the flange members 24 on the buckle member 16. Thus, there is no need to longitudinally

pinch the strap 20 in order to operatively position the buckle member 18 in interlocked engagement with the buckle member 16; and

b. the undersides of Scholey's flange members 24 are not disclosed as being configured to "releaseable wedge" the wing members 22 on buckle member 18. Rather, the wing members 22 are maintained in an abutting interlocked relationship with the flanges 24 by tension in the elastic strap 20.

#### Claim 9

Claim 9 is not anticipated by Scholey for at least the reasons set forth with respect to claim 8, and additionally because the undersides of the Scholey flange members 24 do not have "downwardly sloping jamming surfaces configured to frictionally retain" the wing members 22 on buckle member 18.

#### Claim 10

Claim 10 is not anticipated by Scholey for at least the reasons set forth with respect to claims 1 or 9, and additionally because the space (slot) between the flange members 24 does not have "converging sections leading from a maximum width of said slot at the entry end of said receiving channel to a reduced width of said slot at an intermediate location along the length of said channel."

#### Claim 11

Claim 11 is not anticipated by Scholey for at least the reasons set forth with respect to claims 1 or 9, and additionally because the undersides of the flange members 24 do not define stop surfaces engageable with shoulders on the wing members 22.

Claim 12

Claim 12 is not anticipated by Scholey for at least the reasons set forth with respect to claim 11, and further because the flange members 24 in Scholey do not have undersides with jamming surfaces sloping downwardly to stop surfaces.

Claims 13 and 14

Claims 13 and 14 are not anticipated by Scholey for at least the reasons set forth with respect to claims 8 or 9.

Claim 15

Claim 15 is not anticipated by Scholey for at least the reasons set forth with respect to claim 13, and additionally because neither of the buckle members 16, 18 has a base with transversely extending slots through which the strap 20 is woven.

In light of the foregoing, applicant respectfully requests that the Board of Patent Appeals and Interferences reverse the examiner's final rejection of claims 1 and 8-15.

Respectfully submitted,



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**9. APPENDIX****APPEALED CLAIMS**

1 1. For use with a flexible strap having a substantially uniform width and thickness and an  
2 end tab of increased thickness, a buckle for capturing and releasably retaining said end tab, said  
3 buckle comprising:

4 a base;

5 parallel side walls extending upwardly from and cooperating with said base to  
6 define an open-ended receiving channel having an entry end and an exit  
7 end;

8 first slots extending transversally across said base, said buckle being attached to  
9 said strap by weaving said strap into and out of said channel through said  
10 first slots;

11 flanges spaced vertically from said base and extending inwardly in cantilever  
12 fashion from said side walls to define an open-ended second slot  
13 communicating with and extending along the length of said receiving  
14 channel, said second slot being configured and dimensioned to  
15 accommodate longitudinal pinching and lateral insertion of said strap into  
16 said receiving channel, said flanges having undersides configured to  
17 accommodate receipt of said end tab in said receiving channel via said  
18 entry end, and to releasably wedge said end tab in and prevent withdrawal of  
19 said end tab from said receiving channel via said exit end.

Claims 2-7 withdrawn.

1           8.     For use with a flexible strap having a width and thickness and an end tab of  
2 increased thickness, a buckle for capturing and releasably retaining said end tab, said buckle  
3 comprising:  
4                 a base;  
5                 parallel side walls extending upwardly from said base to cooperate  
6                         therewith in defining an open-ended receiving channel;  
7                 flanges spaced vertically from said base and extending inwardly  
8                         from said side walls to define an open-ended slot communicating  
9                         with said receiving channel, said flanges having converging sections  
10                         leading from one end of said slot to an intermediate location  
11                         along the length thereof, said slot being configured and  
12                         dimensioned to accommodate longitudinal pinching and lateral insertion  
13                         of said strap into said receiving channel, and said converging sections of  
14                         said flanges having undersides configured to coact with said base in  
15                         releasably wedging said end tab in said receiving channel.

1           9.     For use with a flexible strap having a substantially uniform width and thickness  
2 and an end tab of increased thickness, a buckle for capturing and releasably retaining said end  
3 tab, said buckle comprising:

1                 a base;  
2                 parallel side walls extending upwardly from and cooperating with said  
3                         base to define an open-ended receiving channel having an entry end and  
4                         an exit end;

5 flanges spaced vertically from said base and extending inwardly in cantilever  
6 fashion from said side walls to define an open-ended slot communicating  
7 with and extending along the length of said receiving channel, said slot  
8 being configured and dimensioned to accommodate longitudinal pinching  
9 and lateral insertion of said strap into said receiving channel, and said  
10 flanges having undersides with downwardly sloping jamming surfaces  
11 configured to frictionally retain said end tab in said receiving channel.

1 10. The buckle of claims 1 or 9 wherein said flanges have converging sections  
2 leading from a maximum width of said slot at the entry end of said receiving channel to a  
3 reduced width of said slot at an intermediate location along the length of said channel.

1 11. The buckle of claims 1, 8 or 9 wherein said end tab defines a shoulder extending  
2 transversally across the width of said strap, and wherein the undersides of said flanges define  
3 stop surfaces engageable with said shoulder.

1 12. The buckle of claim 11 wherein said jamming surfaces slope downwardly towards  
2 said stop surfaces.

1 13. The buckle of claims 8 or 9 wherein said base is secured to a section of said strap.

1 14. The buckle of claims 8 or 9 wherein said base is formed as an integral part of a  
2 carrier structure.

1 15. The buckle of claim 13 further comprising attachment slots extending  
2 transversally across said base, said buckle being attached to said strap by weaving said strap  
3 into and out of said channel through said attachment slots.